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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**
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12	OUTERBRIDGE ACCESS)	Case No.: 08 CV 0045 BTM CAB
13	ASSOCIATION, SUING ON BEHALF)	DECLARATION OF TIMOTHY G.
14	OF DIANE CROSS; and DIANE CROSS,)	MCNULTY IN REPLY TO
15	An Individual,)	PLAINTIFFS' OPPOSITION TO
16	Plaintiffs,)	DEFENDANT'S MOTION TO
17	vs.)	DISMISS
18	ROSS DRESS FOR LESS, INC. d.b.a.)	[FRCP §§ 12(b)(1); 28 U.S.C. 1367(c)]
19	ROSS DRESS FOR LESS #478; MANNA)	Complaint Filed: January 8, 2008
20	DEVELOPMENT GROUP, LLC. D.b.a.)	Date: April 11, 2008
21	PANERA BREAD #4279; MIRA MESA)	Time: 11:00 a.m.
	MARKETPLACE EAST, LLC and DOES)	Judge: Hon. Barry Ted Moskowitz
	1 THROUGH 10, Inclusive,)	Courtroom: 15
	Defendants.)	NO ORAL ARGUMENT UNLESS
		REQUESTED BY COURT

22 I, Timothy G. McNulty declare as follows:

23 1. I have personal knowledge of all the matters stated herein and, if called as a
24 witness, I could competently testify thereto, except as to those matters stated upon information
25 and belief, and as to those matters, I believe them to be true. I am an attorney at law, duly
26 admitted to practice before the courts of the State of California and the United States District
27 Court for the Southern District of California, and an attorney at the law firm of Milberg &
28 DePhillips, attorneys of record for Defendant MIRA MESA MARKETPLACE EAST, LLC the
above matter.

2. Plaintiffs filed two separate but identically pleaded ADA complaints against shopping centers operated by Defendant entitled Outerbridge Access Association/Diane Cross vs. Mira Mesa Market Place West, LLC.; Home Depot U.S.A. Case No.:08 CV 0046 JM JMA and Outerbridge Access Association/Diane Cross vs. Mira Mesa Market Place East; Ross Dress for Less., LLC. et. al. Case No.: 08 CV 0045 BTM CAB. The two shopping centers neighbor each other and are divided by Westview Parkway Road, in San Diego California.

3. On February 12, 2008, Defendant Mira Mesa Marketplace filed similar Motions to Dismiss State law claims in both cases. In the Mira Mesa West case, Plaintiffs decided to amend their complaint dismissing all State law claims. Attached hereto as Exhibits "A" and "B" are true and correct copies of Plaintiff Outerbridge Access' Opposition to Defendants Motion to Dismiss Supplemental State Law Claims and the Court's Order Granting Motion to Amend in Outerbridge Access Association/Diane Cross vs. Mira Mesa Market Place West, LLC.; Home Depot U.S.A. Case No.:08 CV 0046 JM JMA .

4. In another recent ADA case filed against Defendant Mira Mesa Marketplace West, Kohler vs. Mira Mesa Marketplace East, et al., No. 06CV2399 WQH (POR), (SD Cal. June 4, 2007.), the Court recently dismissed the State law claims from Plaintiff's complaint. In that case, Plaintiff Kohler decided to dismiss his entire case, reserving the right the re-file both State and Federal law claims in San Diego Superior Court.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct and that this declaration was executed on April 1, 2008 at Cardiff, California.

/s/ Timothy G McNulty

TIMOTHY G. MCNULTY